

## **REMARKS**

### **I. Status of Claims**

Claims 19–29, 30–60, 62–68, 70–78, and 80–82 are currently pending in the present application. Independent claims 19, 57, 64, 74, and 82 are amended herein to recite that the liquid fatty alcohol containing no more than one hydroxyl group is the only fatty liquid alcohol present in the composition. Claim 30 is canceled herein.

No new matter has been added by this proposed amendment nor does this amendment raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. All of the elements and their relationships now claimed were earlier claimed in the claims as examined. In fact, the proposed amendment serves to make explicit that which was implicit in Applicant's previous responses. Therefore, this Amendment under 37 C.F.R. § 1.116 should allow for immediate action by the Office. The proposed amendments, moreover, place the claims in condition for allowance or, at least, in better form for appeal, if necessary..

### **II. Claim Objection under 37 C.F.R. § 1.75(c)**

The Office objects to claim 30 under 37 C.F.R. § 1.75(c) as "being of improper dependent form for failing to further limit the subject matter of the previous claim." Final Office Action at 3. Applicants have canceled claim 30 without prejudice or disclaimer, obviating this rejection. Reconsideration and withdrawal of this rejection is respectfully requested.

### **III. Claim Rejections Based on 35 U.S.C. § 103(a)**

The Office rejects claims 19, 20, 27–30, 32, 33, 52–54, 56–58, 64–66, 72–76, and 82 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,110,450 to

Bergmann (*Bergmann*) in view of Flick, *Cosmetic & Toiletry Formulations* (1995) (*Flick*) and U.S. Patent No. 5,888,489 to von Mallek (*von Mallek*). Final Office Action at 3. The Office also rejects claims 21–26, 34, 59, 60, 67, 68, 77, and 78 as unpatentable over *Bergmann*, *Flick*, and *von Mallek* in further view of U.S. Patent No. 6,312,674 to Maubru (*Maubru*). *Id.* at 6. The Office rejects claims 35–51, 62, 63, 70, 71, 80, and 81 as unpatentable over *Bergmann*, *Flick*, and *von Mallek*, in further view of U.S. Patent No. 6,120,757 to Dubief et al. (*Dubief*). *Id.* at 7. Last, the Office rejects claims 35–51, 62, 63, 70, 71, 80, and 81 as unpatentable over *Bergmann*, *Flick*, and *von Mallek*, in further view of U.S. Patent No. 5,587,155 to Ochiai et al. (*Ochiai*). *Id.* at 8. A full statement of the Office’s rejection can be found in the Office Action at pages 3–11. Applicants respectfully submit that the rejected claims are patentably distinguishable from the references relied on in the claim rejections, and request reconsideration and withdrawal of the claim rejections for the reasons outlined below.

**A. Rejections Under 35 U.S.C. § 103 Based on *Bergmann*, *Flick*, and *von Mallek***

The Office rejects claims 19, 20, 27–30, 32, 33, 52–54, 56–58, 61, 64–66, 69, 72–76, and 82 as unpatentable over *Bergmann* in view of *Flick* and *von Mallek*. Final Office Action at 3. The nuances of the Office’s rejection can be found in the Office Action at pages 3–6. Claims 19, 57, 64, 74, and 82 are the only independent claims included in that claim rejection, and Applicants respectfully submit that those claims, as amended, are patentably distinguishable from the cited references.

For reasons of record, Applicants maintain that the pending claims are patentably distinguishable from *Bergmann* in at least three ways that are not cured by *Flick* and *von Mallek*, whether viewed individually or in combination. See, e.g., Office Action

Response filed November 16, 2009, at 35–39. But in the Final Office Action, the Office continues to state that “while the claims require one liquid fatty alcohol with only one hydroxyl group in the composition, [the] examiner construes the claims in such a way that it does not exclude the presence of liquid fatty alcohols with more than one hydroxyl group.” Final Office Action at 3–4. Without necessarily agreeing with the Office, Applicant has amended independent claims 18, 57, 64, 74, and 82 to explicitly recite that the liquid fatty alcohol containing no more than one hydroxyl group is the only fatty liquid alcohol present in the composition. Applicants believe that this amendment directly addresses the Office’s concerns raised in the Final Office Action. Moreover, since this amendment merely makes explicit that which was implicit in Applicants’ previous responses, Applicants respectfully request entry of those amendments and allowance of the pending claims.

**B. Rejections Under 35 U.S.C. § 103 Based on *Bergmann, Flick, von Mallek, and Maubru***

The Office rejects dependent claims 21–26, 34, 59, 60, 67, 68, 77, and 78 as unpatentable over *Bergmann, Flick, and von Mallek* in further view of *Maubru*. Final Office Action at 6. This ground of rejection was rendered moot by the amendments to independent claims 19, 57, 64, and 74. Accordingly, Applicants respectfully request withdrawal of this rejection, and allowance of dependent claims 21–26, 34, 59, 60, 67, 68, 77, and 78.

**C. Rejections Under 35 U.S.C. § 103 Based on *Bergmann, Flick, von Mallek, Maubru, and Dubief***

The Office rejects dependent claims 35–51, 62, 63, 70, 71, 80, and 81 as unpatentable over *Bergmann, Flick, von Mallek, Maubru*, in further view of *Dubief*. Final

Office Action at 7. This ground of rejection was rendered moot by the amendments to independent claims 19, 57, 64, and 74. Accordingly, Applicants respectfully request withdrawal of this rejection, and allowance of dependent claims 35–51, 62, 63, 70, 71, 80, and 81.

**D. Rejections Under 35 U.S.C. § 103 Based on *Bergmann, Flick, von Mallek, and Ochiai***

Last, the Office rejects claims 35–51, 62, 63, 70, 71, 80, and 81 as unpatentable over *Bergmann, Flick, and von Mallek*, in further view of U.S. Patent No. 5,587,155 to Ochiai et al. (*Ochiai*). final Office Action at 8. This ground of rejection was rendered moot by the amendments to independent claims 19, 57, 64, and 74. Accordingly, Applicants respectfully request withdrawal of this rejection, and allowance of dependent claims 35–51, 62, 63, 70, 71, 80, and 81.

**IV. Conclusion**

In view of the foregoing amendment and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned representative at (404) 653-6553.


Applicants respectfully submit that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: May 18, 2010

By:   
Alexis N. Simpson  
Reg. No. 63,686